

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. 7,572,463
Issued: August 11, 2009
Application No. : 10/084,674 Confirmation No. : 2545
First Named Inventor : Johannes BARTHOLOMAEUS
Filed : February 28, 2002
Docket No. : 029310.50986US
Title : Oral Dosage Forms

REPLY TO DECISION DISMISSING REQUEST FOR RECALCULATION

Mail Stop: Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentee hereby respectfully requests reconsideration of the dismissal of its request for recalculation of the patent term adjustment for the above-captioned patent. Contrary to the assertions in the decision mailed April 21, 2010, the patent is eligible for reconsideration of the patent term adjustment because it satisfies all of the requirements therefor.

- (A) The patent is utility patent and not a design or reissue application or reexamination proceeding.
- (B) The patent for which PTA recalculation is requested resulted from a utility patent application filed under 35 U.S.C. § 111(a) on February 28, 2002, which date is after May 29, 2000.
- (C) The patent for which PTA recalculation is requested did not result from an international application in which the international filing date was before May 29, 2000. Rather, the application was filed as a continuation of an international application which was filed on August 29, 2000.
- (D) The patent for which PTA recalculation is requested issued August 11, 2009, which date is prior to March 2, 2010.
- (E) The request for recalculation was timely filed on February 12, 2010. The 180 day term for filing the request expired on Sunday, February 7, 2010. Thus, pursuant to the provisions of 35 U.S.C. § 21(b), the term for taking

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action was automatically carried over until Monday, February 8, 2010. However, Monday, February 8, 2010 through Thursday, February 11, 2010, were days on which the Patent and Trademark Office was closed due to a severe weather emergency (see attached OPM notices) and therefore were deemed by the Commissioner to be Federal holidays within the District of Columbia on which the Office was not open to receive correspondence. Therefore, pursuant to the provisions of 35 U.S.C. § 21(b) the term for submitting the request for patent term calculation was carried over to the next business day on which the Office was open to receive correspondence, which day was Friday, February 12, 2010, and the filing of the request on that day was timely.

(F) The request for recalculation is solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. § 154(b)(2)(A); and

(G) No civil action has been filed pursuant to 35 U.S.C. § 154(b)(4)(A) concerning the patent at issue.

Patentee therefore respectfully submits that the patent in issue is entitled to patent term recalculation, and appropriate action is earnestly solicited.

If there are any questions regarding this Reply, a telephone call to the undersigned at (202) 624-2845 would be appreciated since this should expedite the consideration of this matter for all concerned.

Respectfully submitted,

May 17, 2010



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This page can be found on the web at the following url:
<http://www.opm.gov/status/pastStatus.aspx?q=241>

Federal GovernmentArchived Operating Status in the Washington, DC, Area

the following message applies only to Monday, February 8, 2010

CLOSED

Federal agencies in the Washington, DC, area are **CLOSED**.

This Means . . .

- Federal agencies in the Washington, DC, area are closed. Nonemergency employees (including employees on pre-approved leave) will be granted excused absence for the number of hours they were scheduled to work. This does not apply to employees on leave without pay, leave without pay for military duty, workers' compensation, suspension, or in another nonpay status.
- *Telework employees* may be expected to work from their telework sites, as specified in their telework agreements.
- *Emergency employees* are expected to report for work on time.
- Employees on alternative work schedules are not entitled to another AWS day off in lieu of the workday on which the agency is closed.

Posted on February 7, 2010 at 6:00 PM

This page can be found on the web at the following url:
<http://www.opm.gov/status/pastStatus.aspx?q=248>

Federal GovernmentArchived Operating Status in the Washington, DC, Area

the following message applies only to Tuesday, February 9, 2010

 Federal agencies in the Washington, DC, area are **CLOSED**.

This Means . . .

- Federal agencies in the Washington, DC, area are closed. Nonemergency employees (including employees on pre-approved leave) will be granted excused absence for the number of hours they were scheduled to work. This does not apply to employees on leave without pay, leave without pay for military duty, workers' compensation, suspension, or in another nonpay status.
- *Telework employees* may be expected to work from their telework sites, as specified in their telework agreements.
- *Emergency employees* are expected to report for work on time.
- Employees on alternative work schedules are not entitled to another AWS day off in lieu of the workday on which the agency is closed.

Posted on February 8, 2010 at 7:15 PM

This page can be found on the web at the following url:
<http://www.opm.gov/status/pastStatus.aspx?q=267>

Federal GovernmentArchived Operating Status in the Washington, DC, Area

the following message applies only to Wednesday, February 10, 2010



Federal agencies in the Washington, DC, area are **CLOSED**.

This Means . . .

- Federal agencies in the Washington, DC, area are closed. Nonemergency employees (including employees on pre-approved leave) will be granted excused absence for the number of hours they were scheduled to work. This does not apply to employees on leave without pay, leave without pay for military duty, workers' compensation, suspension, or in another nonpay status.
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- *Emergency employees* are expected to report for work on time.
- Employees on alternative work schedules are not entitled to another AWS day off in lieu of the workday on which the agency is closed.

Posted on February 9, 2010 at 6:50 PM

This page can be found on the web at the following url:
<http://www.opm.gov/status/pastStatus.aspx?q=271>

Federal GovernmentArchived Operating Status in the Washington, DC, Area

the following message applies only to Thursday, February 11, 2010

 Federal agencies in the Washington, DC, area are **CLOSED**.

This Means . . .

- Federal agencies in the Washington, DC, area are closed. Nonemergency employees (including employees on pre-approved leave) will be granted excused absence for the number of hours they were scheduled to work. This does not apply to employees on leave without pay, leave without pay for military duty, workers' compensation, suspension, or in another nonpay status.
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- *Emergency employees* are expected to report for work on time.
- Employees on alternative work schedules are not entitled to another AWS day off in lieu of the workday on which the agency is closed.

Posted on February 10, 2010 at 6:50 PM